

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

AUSTIN FERGE and DOUGLAS WISE,		
Plaintiff,		
v.		Case No. 08-CV-50110
FEDERAL EXPRESS CORPORATION,		
a Delaware corporation, d/b/a FEDEX		Judge Frederick Kapala
EXPRESS, and FEDEX FREIGHT EAST,		
INC., an Arkansas corporation,		
Defendants.		

**NOTICE OF FILING**

TO: Robert H. Clark  
CLARK, JUSTEN & ZUCCHI, LTD.  
7320 N. Alpine Road  
Rockford, IL 61111

**PLEASE TAKE NOTICE** that on August 8, 2008, Defendants, FEDERAL EXPRESS CORPORATION, a Delaware corporation, d/b/a FEDEX EXPRESS, and FEDEX FREIGHT EAST, INC., an Arkansas corporation, by their attorneys Scopelitis, Garvin, Light, Hanson & Feary, P.C., served upon Plaintiff, their Defendant's Disclosure Pursuant to Federal Rule of Civil Procedure 26(a)(1), a copy which is attached hereto.

Respectfully submitted,

**FEDEX FREIGHT EAST, INC.**

By: /s/ James D. Ellman  
James D. Ellman  
One of Its Attorneys

Donald W. Devitt  
James D. Ellman  
Scopelitis, Garvin, Light, Hanson & Feary  
30 W. Monroe Street, Suite 600  
Chicago, Illinois 60603  
Telephone: (312) 255-7200

**CERTIFICATE OF SERVICE**

I, James D. Ellman, hereby certify that a copy of the foregoing pleading was filed electronically this 8<sup>th</sup> day of August, 2008. Notice of this electronic filing will be sent to all parties of record by the operation of the Court's electronic filing system. In the event the parties are not registered to receive electronic mailing, hard copies will be sent via United States First Class Mail, with proper postage prepaid this 8<sup>th</sup> day of August, 2008.

By: /s/ James D. Ellman  
James D. Ellman  
One of Its Attorneys

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

AUSTIN FERGE and DOUGLAS WISE,	]	
	]	
Plaintiff,	]	
	]	
v.	]	Case No. 08-CV-50110
	]	
FEDERAL EXPRESS CORPORATION,	]	
a Delaware corporation, d/b/a FEDEX	]	Judge Frederick Kapala
EXPRESS, and FEDEX FREIGHT EAST,	]	
INC., an Arkansas corporation,	]	
	]	
Defendants.	]	

**DEFENDANT'S DISCLOSURE PURSUANT TO FEDERAL RULE OF  
CIVIL PROCEDURE 26(a)(1)**

TO: Robert H. Clark  
CLARK, JUSTEN & ZUCCHI, LTD.  
7320 N. Alpine Road  
Rockford, IL 61111

NOW COMES the Defendant, FEDEX FREIGHT EAST, INC., by and  
though its attorneys, SCOPELITIS GARVIN LIGHT HANSON & FEARY, P.C.,  
and makes the following disclosures pursuant to Federal Rule of Civil  
Procedure 26(a)(1):

**(A) INDIVIDUALS LIKELY TO HAVE DISCOVERABLE  
INFORMATION AND/OR WITNESSES.**

Federal Express Employees:

**Brad Swinson**, FedEx Freight East, Inc., 4063 Ashwinton Way, Rockford  
IL 61109. Mr. Swinson was the driver of the vehicle involved in the accident.  
He has knowledge of the facts and circumstances surrounding the accident,

before, during and after the accident, including actions, observations and conversation at the scene of the accident, and his driving background and training.

**Dan Rock**, FedEx, 3302 American Road, Rockford IL 61109. Mr. Rock is the Rockford Service Center Manager for FedEx. He has knowledge about Mr. Swinson's qualifications, training and employment issues, as well as the maintenance history of the tractor and trailer, matters related to safety, and he has knowledge of the scene of the accident as he visited the scene shortly after the accident.

**Thomas Durnell**, FedEx, 3302 American Road, Rockford IL 61109. Mr. Durnell is the Rockford Operations Supervisor for FedEx. He has knowledge about Mr. Swinson's qualifications, training and employment issues, as well as the maintenance history of the tractor and trailer, matters related to safety, and he has knowledge of the scene of the accident as he visited the scene shortly after the accident, and he may have taken photographs of the scene of the accident on the night of the accident.

**Jay Key**, Managing Director for Safety, FedEx, P.O. Box 840, Harrison, Arkansas 72602. The Safety Director has knowledge about the hiring criteria and qualifications of FedEx Freight East, Inc.'s drivers and all safety related issues.

**Chris Green**, FedEx, 3302 American Road, Rockford IL 61109. Chris Green is a FedEx employee who visited the scene after the accident.

Independent Adjuster:

**Troy Turman, and/or Patrick O'Connor** Crawford, 1900E. Golf Rd., Suite 700, P.O. Box 681519, Schaumburg, IL 60173. Mr. Turman has knowledge of the facts and circumstances surrounding the accident from his visit to the scene shortly after the accident, including observations and conversation at the scene of the accident. Mr. Turman also took photographs of the scene of the accident on the night of the accident and the following day.

Plaintiffs:

**Austin Ferge**, Mr. Ferge has knowledge about the facts and facts and circumstances surrounding the accident, before, during and after the accident, including actions, observations and conversation at the scene of the accident, as well as his injuries and claimed damages.

**Douglas Wise**, Mr. Wise has knowledge about the facts and facts and circumstances surrounding the accident, before, during and after the accident, including actions, observations and conversation at the scene of the accident, as well as his injuries and claimed damages.

Witnesses:

**Avery Johnson**, 1226 N. Main St., #204, Rockford, IL. Mr. Johnson has knowledge about the facts and circumstances surrounding the accident and his observations and contact with the plaintiffs.

**Laketta Prewitt**, 1226 N. Main St., #204, Rockford, IL. Ms. Prewitt has knowledge about the facts and circumstances surrounding the accident and his observations and contact with the plaintiffs.

**Ruben Yanez**, 4701 Florence St., Rockford, IL. Mr. Yanez has knowledge about the facts and circumstances surrounding the accident and his observations and contact with the plaintiffs.

**Michelle Yanez**, 4701 Florence St., Rockford, IL. Mrs. Yanez has knowledge about the facts and circumstances surrounding the accident and his observations and contact with the plaintiffs.

Police Personnel:

Illinois State Police Trooper Mata, ID#: 3647; Unidentified Illinois State Police Officer, ID# 1933; Illinois State Police Sargent Person; Illinois State Police Officer R. Mathews; Illinois State Police Officer P. Gallagher; Illinois State Police Officer Mankarious. These officers will testify as to their inspection of the scene and vehicles, investigation of the accident, reports prepared and their contact and conversations with witnesses and the plaintiffs.

Emergency Personnel

Unidentified responding emergency personnel.

Post-Occurrence Witnesses

Unidentified post-occurrence witnesses, including those who may have taken photographs or videotape of the accident scene or vehicles involved.

Plaintiff's Medical Providers: Defendant may solicit testimony from plaintiff's medical providers regarding plaintiff's claimed injuries and damages.

Defendant's Retained Experts: Defendant reserves the right to timely identify expert witnesses pursuant to Rule 26(a)(2).

**(B) DOCUMENTS**

1. Personnel records and qualification file for Bradley Swinson.
2. Maintenance records for the tractor and trailer driven by Mr. Swinson.
3. Safety records kept by FedEx.
4. Photographs of the scene of the accident and the vehicles involved in the accident.
5. Police report and reconstruction report and diagram.
6. Data downloaded from the FedEx tractor's Electronic Control Module.
7. Logs and pre-trip inspection reports.

**(C) DAMAGES**

Not applicable.

**(D) INSURANCE**

FedEx Freight East, Inc. has a primary policy, policy number D007A00103, with Discover Prop & Cas. Ins. Co. in the amount of \$10 Million, and excess insurance.

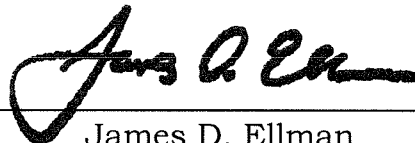
Respectfully submitted,

**FEDEX FREIGHT EAST, INC.**

By: /s/ James D. Ellman  
James D. Ellman  
One of Its Attorneys

CERTIFICATE OF SERVICE

I, James D. Ellman, an attorney, hereby certify that I caused to be served on all parties of record, at their respective addresses, the foregoing **FedEx Freight East, Inc. Disclosure Pursuant to Federal Rule of Civil Procedure 26(a)(1)**, via 1<sup>st</sup> class mail this 8<sup>th</sup> day of August, 2008.



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James D. Ellman

**OF COUNSEL:**

Donald W. Devitt  
James D. Ellman  
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